IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Bail Appl..No. 5960 of 2007()

CP.22/2007 of J.M.F.C.- I, DEVICOLAM
CRIME NO.106/05 OF THE MUNNAR POLICE STATION

.....

: PETITIONER/ACCUSED NO.2

GANESHAN, AGED 23 YEARS, S/O. EASHWARAN,
12TH MURY LAYAM, POWER HOUSE DIVISION,
PALLIVASAL, IDUKKI DISTRICT.

BY ADV. SRI.RENJITH B.MARAR
SMT.LAKSHMI.N.KAIMAL

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, MUNNAR POLICE
STATION, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5960 OF 2007

Dated this the 3rd day of October, 2007

ORDER

The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. Investigation is now complete. Final report has already been filed. Cognizance has been taken. The matter is pending before the learned Magistrate as committal proceedings. The petitioner was never available for arrest before or after filing the final report. The learned Magistrate, in these circumstances, has issued coercive processes against the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him.

2. According to the learned counsel for the petitioner, the petitioner is absolutely innocent. The petitioner, in these circumstances, wants to surrender before the learned

Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned

Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge